

Agreement Between
Niagara Falls International Bridge Company
Niagara Falls Suspension Bridge Company
and
Great Western Railway Company

1872

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A G R E E M E N T

BETWEEN THE

Niagara Falls International

BRIDGE COMPANY,

THE

Niagara Falls Suspension

BRIDGE COMPANY,

AND THE

Great Western Railway

C O M P A N Y .

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JOURNAL PRINT,
Suspension Bridge, N. Y.

[1872.]

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This Indenture, Made and con-

cluded this first day of October, in the year one thousand eight hundred and fifty-three,

BETWEEN the NIAGARA FALLS INTERNATIONAL BRIDGE COMPANY and the NIAGARA FALLS SUSPENSION BRIDGE COMPANY jointly, party of the first part, and the GREAT WESTERN RAILWAY COMPANY in Canada West, party of the second part.

Whereas, The parties of the first part are now constructing a Suspension Bridge across Niagara River, extending from the village of Bellevue, in the State of New York, to the village of Elgin, in Canada West, with two floors, the upper floor thereof being designed to pass Railroad Trains with Locomotives, and the lower floor thereof for Carriages, foot Passengers and Animals; the upper floor to have side walks for foot Passengers, and Gates to control the entrance upon the Railroad floor and the side walks; and railing or lattice work on the inner margin of the side walks, so as to separate them from the Railroad Passway, and to have the entrance to the side walks separate from the entrance to the Railway, in such a manner as to prevent foot Passengers from going on to the Railroad Track:

And Whereas, The parties of the first part are erecting said Railroad Bridge of such strength and stability, as to render it entirely safe and sufficient for the passage of heavy Trains with Locomotives, and purpose laying down Rails with a gauge of four feet eight and one-half inches; one of five feet and six inches, and one of six feet, and to complete the whole at the earliest period which the safety of the structure will permit.

Now this Indenture Witnesseth, That the said parties of the first part in consideration of the rents, covenants and agreements of the party of the second part hereinafter contained, covenant and agree to, and with the party of the second part, that they will with all convenient speed complete the structure above mentioned, and submit the same to proper tests, and the inspection of the Hon. H. H. KILLALY, and in case of his inability to act, or declining to do so, to some other Engineer competent, to be mutually agreed upon between the parties. In the event of the parties being unable to agree upon an Engineer, each party to appoint one and the persons so appointed to select an umpire, who shall be satisfied of its capacity to carry Engines, Passenger and Freight Cars. at a moderate velocity, not exceeding five miles an hour, and when so finished and satisfactorily tested, to lease and let, and the said parties of the first part, do hereby lease and let to the said party of the second part. The Railroad floor and structure, including all its supports, fixtures and Gates, excepting the side walks and their Gates, to be for their entire use and under their control, for, and during the continuance of their Charter, yielding and paying therefor, to the party of the first part the sum of FORTY-FIVE THOUSAND DOLLARS for each year, payable half-yearly, on the first days of June and December, from and after the time the same shall be tested and approved as aforesaid.

AND the said parties of the second part, covenant and agree to, and with the parties of the first part, that they will forever hereafter, during the continuance of their Charter, except as hereinafter mentioned, yield and pay to the parties of the first part, FORTY-FIVE THOUSAND DOLLARS RENT in each year, payable half-yearly on the first days of June and December, and keep the said floor, Railway Tracks, and all structures and approaches appertaining to the same and so rented, in good order, repair and condition, except the foot walks and the Gates approaching the same--accidents arising from defect in the strength or structure of said Bridge, and accidents by fire also excepted. And it is

expressly understood that the strength and stability of the structure for Railway purposes as herein stated and described, shall be at the risk of the said parties of the first part, and that the conditions herein imposed upon the parties of the second part to keep the said floor in repair shall not apply to the Cables, nor any other part of the Bridge, affecting or pertaining to its stability as a Railway structure.

THE parties of the second part may from time to time, and as often as they may deem necessary at their own cost and charges, (provided the Bridge should be reported on as safe,) require that the said Bridge or any part of the same be examined and reported upon by competent Engineers, which Engineers, if not mutually agreed upon, shall be selected, one by each party, and the two so selected shall choose a third, and should the said Engineers or a majority of them on examination, report that the said Bridge cannot with safety be used for Railroad purposes; then the rent hereby reserved shall cease from such time as said Engineers shall decide the same to be unsafe, until the said Bridge shall be strengthened and made safe, and be so determined by competent Engineers selected and chosen in the manner above described, and when so determined the rent shall be again resumed, and that during the period such rent shall cease and be discontinued. All the Passengers, Baggage, Freight &c., of the parties of the second part crossing said Bridge, shall be subject to such reasonable rates of Toll as shall be agreed upon between the parties. And if at any time hereafter the rent herein reserved or any part thereof, shall be unpaid or remain due and unpaid to the parties of the first part, for the space of thirty days after the same ought to be paid, the parties of the first part shall be at liberty to end this lease, and re-enter and take possession of the structure and all its approaches and appendages, or may at their option suffer this INDENTURE to continue in force and proceed by action to recover arrears of RENT. But nothing in this clause shall be construed to prevent the parties of the first part from proceeding by action or otherwise to recover arrears of rent at any time when due, and in case of re-entry they shall

not be prevented from prosecuting for arrears that may remain due at the time of such re-entry.

For the purpose of making this Covenant and Agreement more explicit and better understood, the following explanations, provisions and stipulations are to become part of this agreement, and each of the parties hereto covenant and agree to the same as follows:

ARTICLE FIRST.—The lower or carriage way of the Bridge and its approaches, and the sidewalks of the upper Railroad floor and their approaches, are to be under the control and for the use of the parties of the first part, but are not to be used in any manner to the hindrance or free and uncontrolled use of the Railroad floor and its approaches by the parties of the second part for Railroad purposes.

SECOND.—The upper Railroad floor of the Bridge and structure, including all support, fixtures and gates, excepting the side walks and their gates and approaches, are to be under the control and for the use of the parties of the second part for Railroad purposes; said support and fixtures properly belonging to, and sustaining the upper structure thereof.

THIRD.—The possession and use of said Railroad structure by the parties of the second part, is to carry with it the exclusive right to extend to other Companies and persons, the privilege of crossing said Railroad Bridge with Locomotives, Trains and Cars carrying Passengers and Freight on such terms as they may agree to, subject however to the conditions and restrictions prescribed in this INDENTURE to the parties of the second part.

FOURTH.—It is understood that the privilege hereby conveyed to the parties of the second part, is for the purpose of passing Locomotives and Cars with Freight and Passengers, in the prosecution of legitimate Railroad business, and that they are not to afford the means to any other person or persons, except Railroad Passengers of crossing or evading the payment of Toll to the parties of the first part.

FIFTH.—The parties of the second part to be responsible to the parties of the first part, that the Companies or individuals to whom they shall underlet, shall keep within the restrictions and conditions contained in this INDENTURE, and the parties of the second part shall have all the profits accruing therefrom.

SIXTH.—As it is believed that many of the Railroad Passengers will prefer walking over said Bridge, or going in Omnibusses or other Carriages, to passing over in the Cars, the parties of the first part agree to permit them so to pass over their upper side walks and Lower Floor Free, on their produc

ing Tickets from the Railroad Company, showing that they are regular Railroad Passengers, and have come from, or are going a distance of at least five miles east or west, to or from the Bridge; but this permission is not to prevent the parties of the first part from charging the regular Tolls upon the Omnibusses or Carriages carrying such Railroad Passengers. The meaning of this article, is, that the parties of the second part shall not carry Passengers who are only passing from one side of the river to the other, and that they, and those to whom they underlet, shall not carry Passengers over said Bridge, nor give Tickets to Passengers, to pass the Bridge who have not come, or are going, at least five miles to or from the Bridge, and shall not give Tickets to, nor carry persons who intend merely to pass the Bridge, and are not thus traveling in their Cars; but shall at all times adopt such reasonable regulations as may be necessary to prevent such evasions of the rights of the parties of the first part, to take Tolls from all except legitimate Railway Passengers. And if at any time the Agents or Employes of the parties of the second part, or those to whom they shall underlet, shall in any manner collude with persons to afford them the means of evading the rights of the parties of the first part, to take Tolls; the parties of the second part, or those exercising the right under them, shall, on such collusion or evasion being made known to them dismiss such Agents or Employes.

SEVENTH.—The parties of the second part agree to keep in good condition and repair the said Railroad Floor, Railway Tracks, and all approaches and structures appertaining to the same herein leased to them as aforesaid; but the stability and sufficiency of the Bridge when completed, as a Railway structure is guaranteed by the parties of the first part. And the parties of the first part also agree to keep the floor of the upper side walks and their approaches and the entire lower floor and its approaches and appendages in good condition and repair.

EIGHTH.—The parties of the second part are to permit under regulations made by them, of the running of a Light Car with Locomotive or Horse Power, to convey Omnibus Passengers between the village of Niagara Falls and Table Rock, by the parties of the first part, but in a manner that shall not interfere with the rights above granted, to the parties of the second part, or any other Railroad Company having rights to pass said Bridge under them.

NINTH.—THE SHORT RAILROAD from Niagara, Canada West, to the Falls, and from Port Dalhousie to St. Catharines, which could not be expected to arrange with the parties of the second part, for Transit across the Bridge, upon a principle of per centage, to have it in their power to arrange

with the parties of the second part at five cents per head for their Railroad Passengers, and a proportionally moderate fare for freight.

(The above ninth article abrogated by agreement of 18, January 1872.

TENTH.—No Railroad Locomotive or Train, to cross the Bridge at a greater velocity than at the rate of five miles per hour; and no Locomotive or Cars to stop or remain on the Bridge in passing over.

ELEVENTH.—The parties of the first part to allow the Directors and Employes of the parties of the second part, and such other Railway Companies as they shall make arrangements with, FREE TICKETS to pass their Bridge, and the parties of the second part, shall allow from their own, and procure from the Railroad Companies with whom they shall arrange for the use of the Bridge as aforesaid, FREE TICKETS for the Directors and Officers of the parties of the first part to pass over their respective Railways.

TWELFTH.—It is believed that the Carriage way of said Bridge, will be finished before the Railway floor shall be completed, and in that case the parties of the first part are to allow the Passengers and their Baggage coming in the Trains of the parties of the second part, to pass such new and present Carriage Bridge, at Ten Cents each, and Freight at a reasonable rate to be agreed upon between the parties.

THIRTEENTH.—The parties of the second part shall not do, nor suffer any act or thing under this agreement contrary to the Charter of Incorporation of either of the Bridge Companies aforesaid.

FOURTEENTH.—ALL TAXES of every description and kind whatever, both upon the American and Canadian sides, to be paid by the parties of the first part.

In Witness Whereof, The parties of these Presents have hereunto caused the Seals of the respective Companies to be affixed, and the same to be executed by their proper Officers the day and year first above mentioned.

*Signed, Sealed and delivered
in presence of*

W. O. BUCHANAN.

LOT CLARK, [Seal.]

Prest. Niag. F.

International B. Co.

W. HAMILTON MERRITT, [Seal.]

Prest. Niag. Falls

Susp. Bridge Co.

W. O. BUCHANAN.

Witness.

Q. M. KENDRICK.

C. J. BRYDGES. [Seal.]

Vice President.

Whereas, differences of opinion have arisen between the parties of the first part and the parties of the second part in the annexed agreement as to the extent and nature of the repairs to be made under the Seventh or other clauses of said agreement and by whom the said are to be made and borne:—

1ST.—FOR explanation thereof it is hereby mutually understood and agreed upon that the parties of the second part shall at their own expense, assume and make, and pay, and bear the cost of repairs of the Track Girders above and below the upper floor beams and also of the upper floor, planking and of the covering thereof between the Suspenders and within the Towers extending about three feet from outside of said Track Girders according to that part tinted red of the plan hereunto annexed, and shall renew the said Girders and upper floor planking, and covering when necessary, and shall also be at the expense of repairing and renewing when necessary one fourth of the floor beams by repaying or refunding to the parties of the first part one fourth of the cost of such repairs and renewals.

2ND.—It is further mutually understood and agreed upon that all such repairs excepting those of the Rails forming the Tracks, shall be made when required by the Mechanical Engineer of the parties of the first part and under his directions and that the parties of the second part shall pay to the parties of the first part the reasonable cost of the same on the production of the certificate of such Engineer.

3RD.—ALL SPANS and APPROACHES to the said Bridge necessary for Railway purposes shall be kept and maintained at the expense of the parties of the second part except the Masonry and the Bridge Stairs.

4TH.—THE ninth clause in the annexed agreement is hereby abrogated and declared to be of no effect.

In Witness Whereof, The parties to these presents have hereunto caused the Seals of their respective Companies to be affixed, and the same to be executed by their proper officers this Eighteenth day of January, One Thousand Eight Hundred and Seventy Two.

*Signed, Sealed and delivered
in presence of*

WM. G. SWAN,
As to the Execution by
LORENZO BURROWS.

LORENZO BURROWS, [Seal.]
Prest. Niagara Falls
International Bridge Co.

SAMUEL DICKIE,
As to the Execution by
THOMAS C. STREET.

THOMAS C. STREET, [Seal.]
Prest. Niagara Falls
Suspension Bridge Co.

By the GREAT WESTERN RAILWAY
of Canada. In presence of
JOHN BURTON.

THE GREAT WESTERN RAILWAY
Of Canada. By [Seal.]
JOSEPH PRICE,
Secretary Canada Board.





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